

**YOUNG
CONAWAY**

WILMINGTON
RODNEY SQUARE

NEW YORK
ROCKEFELLER CENTER

Adam W. Poff
P 302.571.6642
apoff@ycst.com

November 2, 2022

VIA CM/ECF

The Honorable Stephanos Bibas
United States District Court
18614 U.S. Courthouse
601 Market Street
Philadelphia, PA 19106

Re: TexasLDPC Inc. v. Broadcom Inc., et al. – Case No. 18-1966-SB

Dear Judge Bibas:

We write on behalf of Defendants in response to Mr. Mabey's complaints (D.I. 390) about the meet and confer process related to Defendants' motion (D.I. 388) filed on Monday.

Pursuant to Local Rule 7.1.1, I wrote Mr. Mabey and the rest of Plaintiff's litigation team (SERVICEFRTexasLDPC@fr.com) at 2:58 p.m. on Monday to request a time to meet and confer about Defendants' motion before Monday's filing deadline. We received no response from any member of Plaintiff's team, not even the courtesy of a message saying they could not or would not discuss the motion with us before filing. Given Plaintiff's silence, we were left with no choice but to inform the Court that Defendants had not received Plaintiff's position as of the time of filing.

Regarding the lack of response, Mr. Mabey has indicated that he was out of the office when the request for a meet and confer was made and there is certainly no reason to think otherwise, but there was no "out of office" automated response from his email account during that time, so it was not known to us that he could not be reached. Moreover, other recipients of the email were apparently working on the case while ignoring Defendants' request. Plaintiff's counsel filed two letters under Mr. Mabey's signature while the request was pending. One letter (D.I. 387) was a joint status report the filing of which depended in part on my email at 4:21 p.m. approving the content of the letter. Plaintiff's litigation team was clearly available to react to that email. The other was a substantive letter (D.I. 386) addressing sanctions and extension of the case schedule. Based on these filings, it appears Plaintiff's counsel were available to do some things in the case Monday afternoon, just not respond to Defendants' request for a meet and confer.

Young Conaway Stargatt & Taylor, LLP

Rodney Square | 1000 North King Street | Wilmington, DE 19801
P 302.571.6600 F 302.571.1253 YoungConaway.com

Young Conaway Stargatt & Taylor, LLP
The Honorable Stephanos Bibas
November 2, 2022
Page 2

Now that Plaintiff has responded to the request for a meet and confer, albeit not in the way Defendants expected, Defendants will contact Plaintiff immediately to determine whether any part of the motion can be resolved without the Court's involvement and withdrawn accordingly.

Finally, for purposes of clarifying the record, there is no accusation by Mr. Mabey that the parties did not meet and confer about Plaintiff's control over Dr. Gunnam, and that issue comprises the major portion of the motion. Also, Mr. Mabey references Plaintiff's responses to RFAs, but Defendants are not seeking to compel responses to the RFAs in the motion (which would be an issue for the Special Master in any event), so there was no need to meet and confer about them.

To the extent Your Honor has any questions about the foregoing, Defendants' counsel are available at the Court's convenience.

Respectfully submitted,

/s/ Adam W. Poff

Adam W. Poff (No. 3990)

AWP

cc: All Counsel of Record (via e-mail)

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